PATENT
Docket No. 273012010901

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RHEA AMID

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

David DOLPHIN et al.

Serial No.: To Be Assigned (Continuation of SN 09/321,893 filed 5/28/99)

Filing Date: Herewith

For: CHIRAL SEPARATION OF BENZOPORPHYRIN DERIVATIVE MONO- AND DI-ACIDS BY LASER-INDUCED FLUORESCENCE CAPILLARY ELECTROPHORESIS

Examiner: To Be Assigned

Group Art Unit: To Be Assigned

PRELIMINARY AMENDMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Prior to calculation of fees and examination of this application, please amend the application as follows:

sd-69595

IN THE SPECIFICATION:

Please amend the specification as follows:

On page 1 of the specification, immediately after the title on lines 2-4, please substitute the paragraph with the following:

--This application is a continuation of U.S. Patent Application 09/321,893, filed May 28, 1999, allowed, which claims the benefit of U.S. Provisional Application 60/111,955, filed 11 December 1998, which are hereby incorporated by reference in their entireties, as if fully set forth.--

IN THE CLAIMS:

1. (amended) A method of separating stereoisomers of benzoporphyrin derivatives (BPDs) in a clinical sample by a capillary electrophoresis system, which method comprises:

injecting a clinical sample containing said BPD stereoisomers into a capillary electrophoresis system, and

separating said stereoisomers by said capillary electrophoresis system,

wherein the capillary inner diameter, capillary length, field strength, separation temperature, pH, buffer system, ionic strength, chiral selector, and organic solvent are selected to result in separation of BPD stereoisomers, .

4. (amended) The method of claim 1 wherein said separating results in baseline separation.

5. (amended) The method of claim 1 wherein said capillary inner diameter is about 50 μm.

6. (amended) The method of claim 1 wherein said capillary length is from about 27 to about 57 cm.

8. (amended) The method of claim 1 wherein said field strength is from about +15 to about +25 KV.

10. (amended) The method of claim 1 wherein said separation temperature is from about 15 to about 30°C.

12. (amended) The method of claim 1 wherein said pH is from about 8.05 to about 9.6.

14. (amended) The method of claim 1 wherein said buffer system is borate.

15. (amended) The method of claim 1 wherein said ionic strength is from about 200 to about 360 mM borate.

17. (amended) The method of claim 1 wherein said chiral selector is a bile salt.

20. (amended) The method of claim 1 wherein said organic solvent is selected from the group consisting of DMF, isopropanol or acetonitrile.

REMARKS

Attached hereto is a marked-up version of the changes made to the specification by the above amendment. The attached page is captioned "**Version with markings to show changes made.**"

Claim 1 has been amended to be directed to encompass a preferred embodiment of the invention wherein BPD stereoisomers in a clinical sample are separated. This is a commercially contemplated embodiment of the claimed invention and the amendment more specifically points out this embodiment for reasons related to business considerations and commercial competition rather than any reason related to patentability. Claims 4-6, 8, 10, 12, 14, 15, 17 and 20 have been amended to remove multiple dependency. Claim 1, as well as claim 4, have also been amended to incorporate language preferred by the Examiner as indicated during prosecution of parent application 09/321,893.

Support for the amendment to claim 1 is found at least on page 1, at the end of the second full paragraph, and on page 20, first and second full paragraphs. No new matter has been introduced, and entry of the amended claims is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 273012010901.

Respectfully submitted,

Dated: December 17, 2001 By: _____

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Please amend the specification as follows:

On page 1 of the specification, immediately after the title on lines 2-4, please amend the paragraph as follows:

--This application is a continuation of U.S. Patent Application 09/321,893, filed May 28, 1999, allowed, which [The present application] claims the benefit of U.S. Provisional Application 60/111,955, filed 11 December 1998, which [is] are hereby incorporated by reference in [its entirety] their entireties, as if fully set forth.--

IN THE CLAIMS:

1. (amended) A method of separating stereoisomers of benzoporphyrin derivatives (BPDs) in a clinical sample by [with] a capillary electrophoresis system, which method comprises:

injecting a clinical sample containing said BPD stereoisomers into a capillary electrophoresis system, and

separating[,after injection of a sample containing said BPDs,] said stereoisomers by said capillary electrophoresis system,

wherein the capillary inner diameter, capillary length, field strength, separation temperature, pH, buffer system, ionic strength, chiral selector, and organic solvent are selected to result in separation of BPD stereoisomers, .

4. (amended) The method of [claims 1 or 2] claim 1 wherein said separating [is] results in baseline separation.

5. (amended) The method of [claims 1, 2 or 3] claim 1 wherein said capillary inner diameter is about 50 μm.

6. (amended) The method of [claims 1, 2 or 3] claim 1 wherein said capillary length is from about 27 to about 57 cm.

8. (amended) The method of [claims 1, 2 or 3] claim 1 wherein said field strength is from about +15 to about +25 KV.

10. (amended) The method of [claims 1, 2 or 3] claim 1 wherein said separation temperature is from about 15 to about 30°C.

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14. (amended) The method of [claims 1, 2 or 3] claim 1 wherein said buffer system is borate.

15. (amended) The method of [claims 1, 2 or 3] claim 1 wherein said ionic strength is from about 200 to about 360 mM borate.

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